

Message Text

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ACTION L-03

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C O R R E C T E D C O P Y - P A R A 1 & 2

OSD ALSO PASS TO AI/JA, NAVY JAG, DAJA-IA

EO 11652: NA

TAGS: PFOR, PARM

SUBJ: DIPLOMATIC CONFERENCE ON INTERNATIONAL HUMANITARIAN LAW

REF: GENEVA 2350

1. AT SATURDAY SESSION 2 APRIL, DRAFTING COMMITTEE COMPLETED ALL WORK ON PROTOCOL I ON ITS AGENDA. THERE REMAIN ARTICLES 24 THRU 29 AND 36 THRU 39 OF PROTOCOL II TO BE ACCOMPLISHED PRIOR TO ARP 7, AS WELL AS SOME CLEANUP WORK SUCH AS PLACEMENT OF ARTICLES AND REVIEW OF PART, SECTION AND CHAPTER HEADINGS.

2. ENGLISH, FRENCH, SPANISH AND RUSSIAN TEXT OF ARTICLES ADOPTED BY DRAFTING COMMITTEE ARE BEGINNING TO BE DISTRIBUTED AFTER A CATCH-22 MISUNDERSTANDING. USDEL ASKED WHEN WE MIGHT SEE THE TEXTS WHICH HAD BEEN ORALLY AMENDED SINCE 17 MAR AND EMPHASIZED THAT HIS CONCURRENCE IN ACTIONS TAKEN WAS PROVISIONAL PENDING REVIEW OF WRITTEN TEXTS.

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SECRETARIAT REPLIED THAT THEY WANT TO DISTRIBUTE TEXTS IN ALL FIVE LANGUAGES SIMULTANEOUSLY AND THAT ARAB TEXT HAD NOT YET BEEN RECEIVED. MEMBERS OF THREE MAN COMMITTEE PREPARING ARAB TEXT THEN ANNOUNCED THAT THEY NEEDED THE ENGLISH AND FRENCH TEXTS BEFORE THEY COULD COMPLETE THE ARAB TEXTS.

3. US DELEGATIONS WAS SUCCESSFUL IN CORRECTING MOST TEXTS IN

ACCORDANCE WITH US POSITION BUT WAS NOT ABLE TO REVISE FIRST SENTENCE OF PARA 2, ARTICLE 47. FRG PROPOSAL TO INSERT QUOTE THOSE DIRECTED AGAINST UNQUOTE BETWEEN QUOTE TO UNQUOTE AND QUOTE MILITARY UNQUOTE FAILED WHEN ICASA (MEXICO) AND EGYPT OBJECTED ON GROUND THAT WORDS IMPORTING DIRECTION OF ATTACKS ARE TOO SUBJECTIVE AND THAT FRG PROPOSAL INVOLVES MATTER OF SUBSTANCE.

4. FOLLOWING ARE MAJOR TEXT CHANGES IN PROTOCOL I, PARTS IV:

A) DEFINITION OF ATTACKS, ART 44(2), WAS AMENDED BY DELETING QUOTE COMMITTEES UNQUOTE IN ALL LANGUAGES BECAUSE THAT WORD HAS THE PEJORATIVE CONNOTATION OF COMMITTING A CRIME OR A SIN. ICRC HELPED TO ACHIEVE UNANIMITY IN FAVOR OF DELETION BY ADMITTING THAT IT HAD USED THAT WORD DELIBERATELY IN ORDER TO INDICATE A PEJORATIVE TONE TOWARD ACTS OF VIOLENCE, EVEN IN DEFENSE. US PROPOSALS TO SUBSTITUTE QUOTE DIRECTED UNQUOTE DID NOT ACHIEVE CONSENSUS BECAUSE OF OBJECTION BY MEXICO.

B). ART 46(4) DEALING WITH INDISCRIMINATE ATTACKS WAS CLARIFIED IN ACCORDANCE WITH US PROPOSALS AND SUBSTANTIVE CHANGES PROPOSED BY JAN GROUP WERE REJECTED. TEXT OF CHANGE PARA WILL BE TRANSMITTED BY SEPARATE MESSAGE.

C). ART 47(3). ORIGINAL TEXT RESTORED AND JANUARY WORKING GROUP PROPOSAL TO SUBSTITUTE QUOTE SERVED UNQUOTE FOR QUOTE DEDICATED UNQUOTED WAS REJECTED.

D). ART 48(2) OBJECTS INDISPENSABLE TO SURVIVAL OF CIVILAN POPULATION. DESPITE CHAIRMAN AL FALOUDI'S DETERMINATION TO LIMITED OFFICIAL USE

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RETRANSMIT PAR 2 TO COMMITTEE III, USDEL WAS SUCCESSFUL IN SUBSTITUTING QUOTE FOR THEIR SUSTENANCE VALUE UNQUOTE IN PLACE OF QUOTE AS SUCH UNQUOTE. USDEL HAS COORDINATED WRITTEN TEXT OF REVISED PAR 2 IN ALL LANGUAGES AND HAS CONCURRENCE OF ALL MEMBERS OF DRAFTING COMMITTEE WHEN PROPOSAL WAS INTRODUCED. PILLOUD (ICRC) ALMOST UPSET CONSENSUS BY SUGGESTING THAT PHRASE QUOTE AS SUCH UNQUOTE IS UNNECESSARY AND SHOUL BE DELETED WITHOUT SUBSTITUTION. HE EXPRESSED VIEW THAT MOTIVATION PORTION OF SENTENCE WOULD THEN BE CONTROLLING. US OBJECTED TO ICRC PROPOSAL AS A SUBSTANTIVE CHANGE. AFTER A SHORT DEBATE, CONSENSUS ON US PROPOSAL WAS RESTORED WHEN CHAIRMAN MANIFESTED DESIRE TO TEMINATE DISCUSSION AND RULED THAT ENTIRE MATTER BE RETURNED TO COMMITTEE III. ICASA (MEXICO) WHO HAD HAD PRVIOUS ALTERCATIONS WITH CHAIRMAN, PROVIDED SUBSTANTIAL ASSISTANCE IN REVERSING RULING.

E). ART 49(1). SUBSTITUTION OF QUOTE SUCH AS UNQUOTE FOR QUOTE NAMELY UNQUOTE PROPOSED BY JANUARY WORKING GROUP WAS REJECTED AS A SUBSTANTIVE CHANGE.

F. ART 51. USDEL WAS SUCCESSFUL IN RESTORING QUOTE
MAXIMUM EXTENT FEASIBLE UNQUOTE FOR QUOTE FULLEST POSSIBLE
EXTENT UNQUOTE PROPOSED BY JANUARY WORKING GROUP. LINGUISTIC
PROBLEMS IN FRENCH WITH QUOTE FEASIBLE UNQUOTE WERE SOLVED AND
ARE NOW REFLECTED EVEN IN ART 76, PAR 2.

5. CONSULTATIONS WITH SOVIET AND GDR DELEGATIONS SHOW THEIR
INCREASED DETERMINATION TO DEFER MEETING OF AD HOC COMMITTEE ON
WEAPONS AND ITS WORKING GROUP UNTIL AFTER COMMITTEE III HAS
FINISHED ALL WORK. THEY ARE ALSO DETERMINED THAT AD HOC COMMITTEE
SHOULD NOT ADOPT ANY CONCRETE INTERNATIONAL AGREEMENTS PROHIBITING
WEAPONS OR RESTRICTING THEIR USE. INSTEAD, IT SHOULD LIMIT ITSELF
TO A RECAPITULATION OF ISSUES INDICATING AREAS OF AGREEMENT OR
DISAGREEMENT AND MAKE RECOMMENDATIONS ON PROCEDURES AND FORUM OF
FUTURE CONSIDERATION OF THESE ISSUES. SORENSON

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